

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

FAVIO HERNANDEZ-GUZMAN,

CASE NO. C14-986 MJP

Petitioner,

## ORDER ADOPTING REPORT AND RECOMMENDATION

V.

DEPARTMENT OF HOMELAND  
SECURITY,

## Respondent.

THIS MATTER comes before the Court on Petitioner Favio Hernandez-Guzman's Objections (Dkt. No. 25) to the Report and Recommendation of Magistrate Judge Tsuchida (Dkt. No. 24). Having reviewed the Objections and all related papers, the Court hereby ADOPTS the Report and Recommendation and DENIES Petitioner's habeas petition.

Petitioner objects to the Report and Recommendation only insofar as it recommends against transferring the matter to the Ninth Circuit Court of Appeals. (Dkt. No. 25 at 1.) Although it is sometimes possible to transfer immigration cases from a district court to the Ninth Circuit, here Petitioner’s appeal to the BIA on this issue was pending at the time of his petition,

1 so the Ninth Circuit lacks jurisdiction over the claim and the case cannot be transferred. (See  
2 Dkt. No. 23-1 at 4.) See 28 U.S.C. § 1631; 8 U.S.C. § 1252(a)(5); 8 U.S.C. § 1101(a)(47)(B).

3 Meanwhile, as noted by the Report and Recommendation, the Ninth Circuit does not  
4 have jurisdiction over Petitioner's challenge to the Form I-130 petition (Dkt. No. 24 at 7–8), the  
5 constitutionality or legality of the expedited removal statute (id. at 5), or claims related to  
6 discretionary decisions at Petitioner's bond hearing (id. at 6–7).

7 The Court therefore declines to transfer the action to the Ninth Circuit. The Court instead  
8 ADOPTS the Report and Recommendation in full, DENIES the habeas petition, and  
9 DISMISSES the action.

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11 The clerk is ordered to provide copies of this order to all counsel.

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Dated this 23rd day of March, 2015.

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16 Marsha J. Pechman  
Chief United States District Judge

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